

RESOLUTION **KO.** 3344

ADOPTING RULES AND REGULATIONS TO IMPLEMENT PROVISIONS OF
THE EMPLOYER-EMPLOYEE RELATIONS RESOLUTION

WHEREAS, the City Council of the City of Lodi has adopted Resolution No. 3312, dated October 15, 1969, entitled "IMPLEMENTING MEYERS-MILIAS-BROWN ACT BY ESTABLISHING PROCEDURES FOR ADMINISTRATION OF EMPLOYER-EMPLOYEE RELATIONS BETWEEN CITY AND ITS EMPLOYEE ORGANIZATIONS; AND FOR RESOLVING MATTERS AFFECTING EMPLOYMENT." and it is necessary and desirable that, pursuant to Section 16 of said Resolution, certain rules and regulations be adopted in order to implement and carry out the procedures set forth therein,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF LODI that:

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SECTION 1. STATEMENT OF PURPOSE

The purpose of these Rules and Regulations is to implement the Resolution hereinabove in the recital referred to (~~hereinafter re-~~ferred to as "Resolution") and also Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.).

SECTION 2. DEFINITIONS

- (A) The terms used in these Rules and Regulations shall have the same meaning as those defined in Section 3 of said Resolution.
- (B) DAYS - means "calendar days" unless otherwise stated.

SECTION 3. RULE 1 - REPRESENTATION PROCEEDINGS

(A) FORMAL RECOGNITION AS THE MAJORITY REPRESENTATIVE IN AN APPROPRIATE UNIT

- (1) An employee organization that seeks formal recognition as the majority representative in an appropriate unit shall file a Petition for Recognition with the Municipal Employee Relations Officer containing all of the information set forth in Section 9 (a) of the Resolution, accompanied by written proof that at least thirty percent (30%) of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party. Upon receipt of the Petition for Recognition, the Municipal Employee Relations Officer shall determine whether:
 - (i) there has been compliance with the requirements of the Petition for Recognition, and
 - (ii) the proposed unit is an appropriate unit.

If an affirmative determination is made by the Municipal Employee Relations Officer on the foregoing two matters, he shall give notice of such request for formal recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter; if either of the foregoing matters are not affirmatively determined, the Municipal Employee Relations Officer shall inform the employee organization of the reasons therefor in writing.

- (2) Within thirty (30) days of the date notice to employees is given, any other employee organization (hereinafter referred to as the "challenging organization") may seek formal recognition in an overlapping unit by filing a Petition for Recognition, provided however, such challenging organization must submit written proof that it represents at least thirty percent (30%) of the employees in such unit. The Municipal Employee Relations Officer shall hold a hearing on such overlapping Petitions, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between such proposed overlapping units in accordance with the criteria set forth in Section 10 of the Resolution.
- (3) If the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than fifty percent (50%) of the employees in such unit, the Municipal Employee Relations Officer may, in his discretion, grant formal recognition to such employee organization without a secret ballot election.

(4) When an employee organization in the unit found to be appropriate submits written **proof** that it represents at least thirty percent (30%) of the employees in ~~such~~ unit, and it does **not** qualify for or has not been granted recognition pursuant to Sub-Section 3 above, the Municipal Employee Relations Officer shall arrange for **a** secret ballot election to be conducted by the City Clerk, the California State Conciliation **Service**, the American Arbitration Association, or **some** agreed upon third party. All challenging organizations who have submitted written proof that they represent at least thirty percent (30%) of the employees in the unit found to be appropriate, and have submitted **a** Petition for Recognition **as** required by Section 9 of the Resolution, shall be included on the ballot. The choice of **"no organization"** shall also be included **on** the ballot. Employees entitled to **vote** in such election shall be those persons regularly employed in permanent positions within the unit who were employed during the pay period immediately prior to the date which **is** fifteen (15) days before the election, including those who did not **work** during such period because of illness, vacation or authorized leaves of absence and who **are** employed by the City in the same unit on the date of the election. An employee organization shall be granted formal recognition following **an** election or run-off election if:

- (1) that employee organization has received the vote of **a** numerical majority of **all** the employees eligible to vote in the unit in which the election **is** held (i.e., 50% plus 1 of the **votes** of all eligible employees), or

(ii) at least 60% of the total number of employees in the unit eligible to vote have voted in the election or run-off election, and an employee organization receives a numerical majority of all votes cast in the election (i.e., 50% of the votes cast plus 1).

(For example: If 100 employees are eligible to vote in an election, but only 59 actually vote, an employee organization must obtain 51 votes for formal recognition. If 90 employees vote, an employee organization must receive at least 46 votes for formal recognition.)

(iii) in an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election shall also apply to a run-off election.

(5) There shall be no more than one valid election in a twelve (12) month period within the same unit.

(B) DECERTIFICATION OF ESTABLISHED UNIT

(1) A Petition for Decertification alleging that an employee organization granted formal recognition is no longer the majority representative of the employees in an appropriate unit may be filed with the Municipal Employee Relations Officer only during the month of November of each year following the first full year of formal recognition. The Petition for Decertification may be filed by an employee, a group of employees or their representative, or an employee organization. The Petition, including all accompanying documents, shall be verified, in affidavit form, by the person signing it, that its contents are

true. It may be accompanied by a Petition for Recognition by a challenging organization. The Petition for Decertification shall contain the following information:

- (i) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
 - (ii) The name of the formally recognized employee organization.
 - (iii) An allegation that the formally recognized employee organization no longer represents a majority of the appropriate unit, and any other relevant and material facts.
 - (iv) Written proof that at least thirty percent (30%) of the employees in the unit do not desire to be represented by the formally recognized employee organization. Such written proof shall be dated within six (6) months of the date upon which the petition is filed and shall be submitted for confirmation to the Municipal Employee Relations Officer or to a mutually agreed upon disinterested third party.
- (2) The Municipal Employee Relations Officer shall arrange for a secret ballot election to determine if the formally recognized employee organization shall retain its recognition rights. The formally recognized employee organization shall be decertified if a majority of those casting valid ballots vote for decertification.
- (3) There shall be no more than one valid decertification election in the same unit in any twelve (12) month period.

(C) MODIFICATION OF ESTABLISHED UNIT

A Petition for Modification of an established unit may be filed by an employee organization with the Municipal Employee

Relations Officer during the period for filing a Petition for Decertification. The Petition for Modification shall contain all of the information set forth in Section 9 (A) of the Resolution, along with a statement of all relevant facts in support of the proposed modified unit. The Petition shall be accompanied by written proof that at least fifty percent (50%) of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the City; provided however, the employee organization may request that such written proof be submitted to a mutually agreed upon disinterested third party. The Municipal Employee Relations Officer shall hold a hearing on the Petition for Modification, at which time all affected employee organizations shall be heard. Thereafter, the Municipal Employee Relations Officer shall determine the appropriate unit or units as between the existing unit and the proposed modified unit. If the Municipal Employee Relations Officer determines that the proposed modified unit is the appropriate unit, then he shall follow the procedures set forth in Section 3 (A) for determining formal recognition rights in such unit.

(D) DURATION OF FORMAL RECOGNITION

When an employee organization has been formally recognized, such recognition shall remain in effect for one year from the date thereof and thereafter until such time as the Municipal Employee Relations Officer shall determine, on the basis of a secret ballot election conducted in accordance with the foregoing rules, that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be

modified as provided in Sub-Section (C).

(E) COST OF ELECTION PROCEEDINGS

The cost of any election proceeding shall be borne by the challenging organization or organizations whose name(s) appear on the ballot.

(F) IMPASSES IN REPRESENTATION PROCEEDINGS

Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the Municipal Employee Relations Officer made pursuant to Sub-Sections (A), (B), (C), or (D) above shall be processed in accordance with the procedures set forth in Section 13 of the Resolution.

SECTION 4. RULE 2 - DUES CHECK OFF

Only a formally recognized employee organization (i.e. the majority representatives of employees in an appropriate unit) may be granted permission by the Municipal Employee Relations Officer to have the regular dues of its members deducted from their paychecks in accordance with procedures prescribed by the Municipal Employee Relations Officer.

Dues deduction shall be for a specified amount and shall be made only upon the voluntary written authorization of the member. Dues deduction authorization may be cancelled and the dues check-off payroll discontinued at any time by the member upon voluntary written notice to the Municipal Employee Relations Officer. Dues deduction authorization or cancellation shall be made upon cards provided by the Municipal Employee Relations Officer. Employee payroll deduction authorizations shall be in uniform amounts for dues deductions or percentage formulas as may be submitted by the employee organization and approved by the Municipal Employee Relations Officer. Any change in the specified amount of dues deduction or percentage formula shall require the execution

by each member of a **new** authorization card.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues check-off authorized. When a member in good standing of the formally recognized employee organization is in a nonpay ~~status~~ for an entire pay period, **no** dues withholding will **be** made to cover that pay period from future earnings **nor** will the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who **is** in a nonpay status during only a part **of** the pay period, and the salary is not sufficient to cover the full withholding, **no** deduction shall be made. **In** this connection, all other legal and required deductions have priority over employee organization dues.

Dues withheld by the City shall be transmitted to the officer designated in writing by the employee organization as the person authorized to receive such funds, at the address specified.

All employee organizations who receive dues check-off shall indemnify, defend, and hold the City of Lodi harmless against **any** claims made and against any suit instituted against the City of Lodi **on** account of check-off of employee organization dues. In addition all such employee organizations shall refund to **the** City of Lodi any amounts paid to it in error upon presentation of supporting evidence.

SAMPLE DUES AUTHORIZATION CARD

I hereby authorize and direct the Municipal Employee Relations Officer of the City of Lodi to make a payroll deduction from my earnings. once each month, for my formally recognized employee organization dues in the amount of \$_____, the same to be paid to the (name of formally recognized employee organization). This authorization may **be** cancelled and **the** payroll deduction discontinued at any time upon written **notice** to the Municipal Employee Relations Officer.

First deduction to **be** made **on** the payroll for the payroll period ending ____(date)_____ and to continue until further **notice**.

Effective Date

Signature of Employee

Withdrawal of formal recognition of an employee organization ~~as~~ representing an appropriate unit shall constitute the termination of any and all dues deduction agreements as ~~concerns~~ said unit.

This section does not extend to the deduction of monies for the payment of any initiation fees which may be levied by employee organizations.

SECTION 5. RULE 3 - REASONABLE TIME OFF TO MEET AND CONFER

The formally recognized employee organization may select no more than two (2) employee members of such organization to attend scheduled meetings with the Municipal Employee Relations Officer or other management officials ~~on~~ subjects within the scope of representation during regular work hours without ~~loss~~ of compensation. Where circumstances warrant, the Municipal Employee Relations Officer may approve the attendance at such meetings of additional employee representatives with or without ~~loss~~ of compensation. The employee Organization shall, whenever practicable, submit the names of all such employee representatives to the Municipal Employee Relations Officer at least two (2) working days in advance of such meetings. Provided, further:

- (1) that ~~no~~ employee representative shall leave his or her duty or work station or assignment without specific approval of the department head or other authorized City management official.
- (2) that any such meeting ~~is~~ subject to scheduling by City management in a manner consistent with operating ~~needs~~ and work schedules.

Nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

SECTION 6. RULE 4 - ACCESS TO WORK LOCATIONS

Reasonable access to employee work locations shall be granted officers of recognized employee organizations and their officially designated representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the Department Head or the Municipal Employee Relations Officer. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, will not be permitted during working hours.

Nothing in this section shall be construed to prohibit representatives of employee organizations from leaving with the Municipal Employee Relations Officer material appropriate to the organization for distribution to members of said organization during nonwork hours.

SECTION 7. RULE 5 - USE OF CITY FACILITIES

Employee organizations may, with the prior approval of the Municipal Employee Relations Officer, be granted the use of City facilities during non-work hours for meetings of City employees provided space is available, and provided further such meetings are not used for organizational activities or membership drives of City employees. All such requests shall be presented to the MERO as soon as possible, but in no event less than twenty-four (24) hours prior to such meeting. The MERO shall be advised of the purpose or purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

SECTION 8. RULE 6 - USE OF BULLETIN BOARDS

Recognized employee organizations may use portions of City bulletin boards under the following conditions:

1. Material shall be posted on space as designated;
2. Posted material shall bear the identity of the organization.
3. Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State or City Laws;
4. Material shall be neatly displayed and shall be removed when no longer timely;
5. The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to employee organizations' materials;
6. An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

SECTION 9. RULE 7 - AVAILABILITY OF DATA

The City will make available to employee organizations such non-confidential information pertaining to employment relations as is contained in the public records of the agency, subject to the limitations and conditions set forth in this rule and Sections 6250-6260, Government Code of California.

Such information shall be made available during regular office hours in accordance with the City's rules and procedures for making

public records available and after payment of reasonable costs, where applicable.

Information which shall be made available to employee organizations includes regularly published data covering subjects under discussion. Data collected ~~on a~~ promise to keep its source confidential may be made available in statistical summaries, but shall not be made available in such form as to disclose the source.

Nothing in this rule shall be construed to require disclosure of records that **are**:

- (1) Personnel, medical and similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy or be contrary to merit system principles;
- (2) Working papers or memoranda which ~~are~~ not retained in the ordinary course of business or any records where the public interest served by not making the record available clearly outweighs the public interest ~~served~~ by disclosure ~~of~~ the record;
- (3) Records pertaining to pending or prospective litigations to which the City is a party, or to claims or appeals which have not been settled;
- (4) Nothing in this rule shall ~~be~~ construed as requiring the City to do research for ~~an~~ inquirer or ~~to~~ do programming or assemble data in a manner other than **usually** done by the agency.

SECTION 10. RULE 8 - PEACEFUL PERFORMANCE OF CITY SERVICES

Participation by any employee in a **strike** or **work** stoppage is unlawful and shall subject the employee to disciplinary action up to and including discharge.

No employee organization, its representatives, or members shall engage in, cause, instigate, encourage, or condone a strike or work stoppage of any kind.

If a recognized employee organization, its representatives, or members engage in, cause, instigate, encourage, or condone a strike or a work stoppage of any kind, in addition to any other lawful remedies or disciplinary actions, the Municipal Employee Relations Officer may suspend or revoke the recognition granted to such employee organization, may suspend or cancel any or all payroll deductions payable to such organization, and prohibit the use of bulletin boards, prohibit the use of City facilities, and prohibit access to former work or duty stations by such organization.

As used in this section "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full faithful performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

Any decision of the Municipal Employee Relations Officer made under the provisions of this Section may be appealed to the City Council by filing a written Notice of Appeal with the Municipal Employee Relations Officer or the City Clerk, accompanied by a complete statement setting forth all of the grounds upon which the appeal is based. Such Notice of Appeal must be filed within seven (7) days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to

any other appeal.

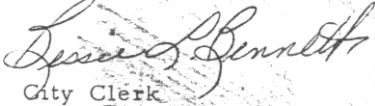
Dated: January 21, 1970.

I hereby certify that Resolution No. 3344 was passed and adopted by the City Council of the City of Lodi in regular meeting held January 21, 1970. by the following vote:

Ayes: Councilmen - BROWN, CULBERTSON, HUNNELL,
SCHAFFER and KIRSTEN

Noes: Councilmen - None

Absent: Councilmen - None


City Clerk